

FISCAL NOTE

Bill #: HB0486

Title: Generally revise CECRA

Primary

Sponsor: Shiell Anderson

Status: As introduced

Sponsor signature	Date	Dave Lewis, Budget Director	Date
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Fiscal Summary

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Expenditures:		
State Special Revenue	\$224,653	\$221,047
Revenue:		
State Special Revenue	0	\$750,000
Net Impact on General Fund Balance:	0	0

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
X		Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long- Term Impacts

Fiscal Analysis

ASSUMPTIONS:

Section 4

1. The DEQ is not authorized to directly recover its attorney fees and litigation costs from insurance proceeds. However, DEQ can get reimbursed for those costs from the Orphan Share Fund. A private party (potentially liable party (PLP)) can recover costs from insurance proceeds indirectly by deducting those costs from insurance proceeds, prior to reimbursing the Orphan Share Fund.
2. There will be two liability allocation petitions as of fiscal year end (FYE) 1999 in the allocation process set forth in the Controlled Allocation of Liability Act (CALA) and the allocations will continue in the 2001 biennium.
3. The 56th Legislature will approve DEQ's \$1,000,000 request for the biennium for Orphan Share reimbursement authority and reimbursement payments for the two petitions in existence as of FYE99 will be made out of this authority.

4. Sites with insurance coverage will now petition for reimbursement under CALA and two new CALA petitions will be received each year in FY 2000 and FY 2001.
5. DEQ will research the viability of initiating litigation to recover remedial action costs that have been reimbursed to participating potentially liable parties (PLPs) from the Orphan Share Fund for one of the two petitions received each year.
6. The cost to research the viability of initiating litigation to recover remedial action costs that have been reimbursed to PLPs from the Orphan Share is assumed to be as follows (one each year):
 - a) 50 hours (0.02 FTE) of DEQ legal staff time/year (grade 17 attorney)
 $(50 \text{ hrs.} \times \$15.877/\text{hour}) \times 127\% = \$1,008$
 - b) 150 hours of outside legal counsel specializing in insurance cases @ \$125/hour = \$18,750/year.
7. The state will pursue litigation on one petition each biennium and $\frac{1}{2}$ of the litigation costs will occur in the first year of the biennium and $\frac{1}{2}$ in the second year of the biennium, and the litigation will result in repayment of the reimbursement amount in the second year of the biennium. Litigation will only be pursued if legal research shows that orphan share costs reimbursed can be recovered from insurance proceeds and these costs will not be less than litigation costs.
8. Litigation assumptions are as follows:
 - a) There will be at least five insurance carriers involved in each legal proceeding and all carriers will be sued under one action.
 - b) Litigation will take two years.
 - c) The trial will take two weeks.
 - d) There will be no appeals; appeal costs have not been included in this fiscal note.
11. The cost of litigation is assumed to be as follows:
 - a) 1,600 total hours; 800 hours/year (0.38 FTE) of DEQ legal staff time (grade 17 attorney)
 $(800 \text{ hrs.} \times \$15.877/\text{hour}) \times 127\% \text{ (benefits)} = \$16,132$
 - b) 2,850 hours; 1425 hours/year of outside legal counsel specializing in insurance cases @ \$125/hour = \$178,125 per year.

Section 6

12. Twenty-five voluntary cleanups will occur in FY 2000 and 20 will occur in FY 2001. Of these, 13 sites in FY 2000 and 10 sites in FY 2001 will include institutional controls.
13. Five CECRA (non-voluntary) cleanups each year for FY 2000 and FY 2001 will include institutional controls.
14. Five petitions to remove institutional controls will be submitted each year for review.
15. The cost of reviewing institutional control documents to determine applicability will total \$25,870 and the technical staff time costs will be absorbed by the DEQ. Costs are calculated as follows:
 - a) 20 hours of technical staff time @ \$20 (including benefits)/hour = \$400
FY 2000 costs = \$400 x 23 reviews = \$9,200
FY 2001 costs = \$400 x 20 reviews = \$8,000
 - b) 10 hours of DEQ legal staff (grade 17 attorney) time
FY 2000 = 10 hours x 23 reviews = 230 hours (0.11 FTE)
 $(230 \text{ hrs.} \times \$15.877 \text{ per hour}) \times 127\% = \$4,638$
FY 2001 = 10 hours x 20 reviews = 200 hours (0.10 FTE)
 $(200 \text{ hours} \times \$15.877 \text{ per hour}) \times 127\% = \$4,032$

General

16. Benefits are 127% of salary costs and other operating expenses are \$6,000 for FY 2000 and \$3,000 for FY 2001 for the 0.50 FTE.

17. There will be enough revenue in the Orphan Share Account over the next biennium to fund the identified costs and to make the assumed reimbursements.

FISCAL IMPACT:

	FY2000 <u>Difference</u>	FY2001 <u>Difference</u>
DEQ		
FTE	0.50	0.50
<u>Expenditures:</u>		
Personal Services	\$21,778	\$21,172
Operating Expenses	<u>202,875</u>	<u>199,875</u>
TOTAL	\$224,653	\$221,047
<u>Funding:</u>		
State Special Revenue (02)	\$224,653	\$221,047
<u>Revenues:</u>		
State Special Revenue (02)	0	\$750,000
<u>Net Impact to Fund Balance (Revenue minus Expenditure):</u>		
State Special Revenue (02)	(\$224,653)	\$528,953

TECHNICAL NOTES:

An amendment to 75-10-743 (2) is recommended to clearly allow the deposit of recovered insurance proceeds into the Orphan Share Fund.